

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
**DIVISION OF WATER RIGHTS**  
**ORDER**

APPLICATION 30119 PERMIT 20821 LICENSE                     

**ORDER AMENDING PERMIT BY ADDITION OF TERMS AND CONDITIONS TO CONFORM WITH  
ORDER WR 96-002 AND ISSUANCE OF SEPARATE PERMITS AND REVOCATION OF ORIGINAL  
PERMIT**

**WHEREAS:**

1. Permit 20821 was issued to Alan Hardin Trust, Donald Hardin Trust and Jeanne Hardin Trust pursuant to Application 30119 on January 26, 1996.
2. Permittee is a signatory to the March 10, 1995 Condition 12 Settlement Agreement (Agreement) between U.S. Bureau of Reclamation, Solano County Water Agency, and most post-1945 appropriative water right holders in the Putah Creek Watershed above Monticello Dam.
3. Order WR 96-002 (Order) was adopted by the State Water Resources Control Board (SWRCB) on February 27, 1996. Both Agreement and Order subject Permit 20821 to specific conditions.
4. A signed letter dated April 8, 1997 was received from the representative for the permittee wherein a request was made for division of Permit 20821 into two separate permits. The representative informed the SWRCB that a 40 acre parcel located within the E $\frac{1}{2}$  of projected Section 36, T9N, R5W, MDB&M, of the permitted place of use and the water right to 49 acre-feet of water stored in Reservoir #1 under Permit 20821 had been sold to Ms. Twiggy Lam on January 8, 1997.
5. The SWRCB has determined the inclusion of terms and conditions relative to Order WR 96-002 and request for division of Permit 20821 does not constitute the initiation of a new right nor operate to the injury of any other lawful water user and that good and sufficient cause for issuance of separate permits has been shown.

**NOW, THEREFORE, IT IS ORDERED:**

1. Permit 20821 be replaced by Permit 20821A issued to Alan Hardin Trust, Donald Hardin Trust and Jeanne Hardin Trust and Permit 20821B issued to Twiggy Lam.
2. Superseded Permit 20821 is hereby revoked upon assignment of Permit 20821A and 20821B.

3. Separate permits be issued as follows:

A. Permit 20821A (Application 30119)  
Owner: Alan Hardin Trust,  
Donald Hardin Trust and  
Jeanne Hardin Trust  
c/o William H. Hardin  
2371 Pope Canyon Road  
St. Helena, CA 94574

Source: (3), (4), (5), Three Unnamed Streams  
tributary to Hardin Creek thence  
Pope Creek thence Lake Berryessa  
thence Putah Creek;

Use: (6), (7) Hardin Creek thence Pope  
Creek thence Lake Berryessa thence  
Putah Creek in Napa county  
Stockwatering, Recreation, at  
Reservoirs, #2, #3, #4 and #5 and Domestic,  
Frost protection, Heat Control and  
Irrigation of 246 acres

Amount: 49 acre-feet-Reservoir #2  
49 acre-feet-Reservoir #3  
49 acre-feet-Reservoir #4  
49 acre-feet-Reservoir #5  
Maximum annual use: 196 acre-feet

Season: November 1 to May 31  
Point(s) of  
Diversion: Point of Diversion #7 to Offstream  
Storage Reservoir #2: South 1,700 feet  
and East 100 feet from NW corner of  
projected Section 31, T9N, R4W, MDB&M,  
being within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said  
Section. Also described as California  
Coordinate System, Zone 2, N 336,850 and  
E 1,898,700.  
Point of Diversion #3 at Onstream  
Storage Reservoir #3: North 800 feet  
and East 1,300 feet from SW  
corner of projected Section 31, T9N,  
R4W, MDB&M, being within the SW $\frac{1}{4}$  of SW $\frac{1}{4}$   
of said Section. Also described as  
California Coordinate System, Zone 2,  
N 334,000 and E 1,899,750.  
Point of Diversion #4 at Onstream  
Storage Reservoir #4: South 1,000 feet  
and East 2,100 feet from NW corner of  
projected Section 6, T8N, R4W, MDB&M,  
being within NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of said  
Section. Also described as California  
Coordinate System, Zone 2, N 332,250  
and E 1,900,550.  
Point of Diversion #5 at Onstream  
Storage Reservoir #5: South 1,900 feet  
and West 400 feet from NE corner of  
projected Section 6, T8N, R4W, MDB&M,  
being within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of said Section.  
Also described as California Coordinate  
System, Zone 2, N 331,200 and  
E 1,903,300.

Point of  
Diversion  
to offstream  
storage:

Point of Diversion #6 to Offstream  
Storage Reservoirs #3, #4 and #5: North  
1,300 feet and East 1,850 feet from SW  
corner of projected Section 31, T9N,  
R4W, MDB&M, being within SE $\frac{1}{4}$  of SW $\frac{1}{4}$   
of said Section. Also describe as  
California Coordinate System, Zone 2,  
N 324,500 and E 1,900,325.

Place of  
Use:

35 acres within NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected  
Section 6, T8N, R4W, MDB&M.  
2 acres within NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected  
Section 6, T8N, R4W, MDB&M.  
22 acres within NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected  
Section 6, T8N, R4W, MDB&M.  
4 acres within NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected  
Section 6, T8N, R4W, MDB&M.  
18 acres within SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected  
Section 6, T8N, R4W, MDB&M.  
24 acres within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected  
Section 6, T8N, R4W, MDB&M.  
2 acres within NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected  
Section 6, T8N, R4W, MDB&M.  
1 acre within NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected  
Section 31, T9N, R4W, MDB&M.  
20 acres within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected  
Section 31, T9N, R4W, MDB&M.  
25 acres within NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected  
Section 31, T9N, R4W, MDB&M.  
4 acres within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected  
Section 31, T9N, R4W, MDB&M.  
8 acres within SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected  
Section 31, T9N, R4W, MDB&M.  
30 acres within SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected  
Section 31, T9N, R4W, MDB&M.  
51 Acres Within E $\frac{1}{2}$  of projected  
Section 36, T9N, R5W, MDB&M.  
246 acres total, as shown on map dated  
November 7, 19997, on file with the SWRCB.

B. Permit  
Owner:

20831B (Application 30119)  
Twiggy Lam  
Flat 29A, Block 33A  
The South Horizon  
Aberdeen, Hong Kong

Source:

(1) Unnamed Stream tributary to Hardin Creek  
thence Maxwell Creek thence Pope Creek thence  
Lake Berryessa thence Putah Creek;

(7) Hardin Creek tributary to Maxwell Creek  
thence Pope Creek thence Lake Berryessa thence  
Putah Creek in Napa County.

Use:

Stockwatering, Recreation, at Reservoir #1  
and Domestic, Frost Protection, Heat  
Control and Irrigation of 40 acres.

Amount:

49 acre-feet-Reservoir #1  
Maximum Annual Use: 49 acre-feet

Season: November 1 to May 31  
Point of  
Diversion: Reservoir #1: South 2,000 feet and  
West 1,300 feet from NE corner of projected  
Section 36, T9N, R5W, MDB&M, being  
within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of said Section. Also  
described as California Coordinate  
System, Zone 2, N 336,500 and  
E 1,897,200.

Point of  
Diversion to  
Offstream  
Storage: Point of Diversion #7 to Offstream  
Storage Reservoir #1: North 1,700 feet  
and East 100 feet from NW corner of  
projected Section 31, T9N, R4W, MDB&M,  
being within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section.  
Also described as California Coordinate  
System, Zone 2, N 336,850 and  
E 1,898,700.

Place of  
Use: Parcel No. 18-150-18: located within NE $\frac{1}{4}$   
of NE $\frac{1}{4}$ , SE $\frac{1}{4}$  of NE $\frac{1}{4}$ , SW $\frac{1}{4}$  of NE $\frac{1}{4}$ , NE $\frac{1}{4}$  of  
SE $\frac{1}{4}$ , and NW $\frac{1}{4}$  of SE $\frac{1}{4}$ , of projected  
Section 36, T9N, R5W, MDB&M.  
40 acres total as shown on map dated  
November 7, 1997, on file with the SWRCB.

4. Permit Conditions derived from the Condition 12 Settlement Agreement dated March 10, 1995 are added to Permits 20821A and 20821B as follows:

Permittee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

- 1) Permittee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the division of water under this permit for noncompliance with the terms of the Agreement.
- 2) Division of water under this permit shall be subject to the watermaster appointed by the court to enforce the terms of the Agreement. The permittee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.
- 3a) Within one year of the construction of the reservoir covered by this permit, permittee shall have the capacity of the reservoir surveyed by a registered civil engineer or licensed surveyor. A copy of this survey and the area-capacity curve shall be provided to the watermaster and the SWRCB.

- 3b) Permittee shall install and maintain a device, satisfactory to the SWRCB, capable of measuring water diverted to storage under this permit. Satisfactory devices shall include: For Pumping Stations:  
(1) In-line flow meter having instantaneous and total flow reading capability, or (2) Proof of a pump test performed within the last five years together with official monthly power consumption records for electric meter serving the pump. For Gravity Diversions:  
A weir, flume, or other flow measuring device that is properly installed, or a flow-rating curve established by volumetric measurements.
- 4a) Permittee shall install and properly maintain in the reservoir a staff gage, satisfactory to the watermaster and the SWRCB, for the purpose of determining water levels in the reservoir. Permittee shall record the staff gage readings on October 1 of each year and April 30 of the succeeding year, or such other period as may be specified by the watermaster with written notice to the permittee.
- 4b) Permittee shall maintain monthly records of diversion to offstream storage from October 1 of each year to April 30 of the succeeding year, or such other period as may be specified with written notice to the permittee by the watermaster.
- 5) Permittee shall report to the watermaster annually, all divisions under this permit by September 1 of each year on forms approved by the watermaster.
- 6) Permittee shall allow the watermaster reasonable access to the project covered by this permit to inspect measuring equipment and to observe compliance with these permit terms and conditions, upon 48-hour prior notice and upon such reasonable conditions as permittee may prescribe.
- 7) Permittee is hereby put on notice that there may be years when diversion of water under this permit will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this permit, and that releases of stored water may be required.
- 8) Permittee is hereby put on notice that the waiver of priority granted by Reclamation and Solano County Water Agency provides that in the event Allowable Depletion is exceeded in any year, water diverted to storage that year shall be released and/or direct diversions shall be curtailed during the ensuing season(s), when applicable, to the extent necessary to bring the Allowable Depletion into compliance, in the following order:

- a. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights in excess of 120 percent of that water right holder's previous five-year average, in reverse order of water right priority.
  - b. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights above the previous Five Year Average Diversion in reverse order of priority.
  - c. All remaining water directly diverted and/or diverted to storage that year by holders of Post-Reservation Water Rights in reverse order of priority.
- 9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, permittee shall have three years, starting in the next Accumulation Season, to make up or repay permittee's excess diversions; or (2) does not reach 640,000 acre-feet of storage as of May 1, permittee shall have one year, starting in the next Accumulation Season, to make up or repay permittee's excess diversions. In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, permittee shall be excused from any further obligation for repayment of the overage.
  - 10) Permittee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.
  - 11) Permittee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the permit.
  - 12) Permittee is hereby put on notice of permittee's right, upon reasonable prior notice, to inspect and to copy, at permittee's own expense, all records and reports of the watermaster.
  - 13) Soley for purposes of administering Post-Reservation Depletion, the average annual depletion assigned to this project is 245 acre-feet per annum (afa) [196 afa under Permit 20821A and 49 afa under Permit 20821B] as calculated by the watermaster using information described in Exhibit C of the Condition 12 Settlement Agreement. Permittee shall notify the watermaster of any change in crop type, acreage irrigated and irrigation method. Any change in water usage which results in an increase in average annual depletion of more than 10 percent for non-weather related reasons, as determined by the watermaster, will require filing a new water right application. (Agreement pp. 13-15 Exhibit E)

Inclusion in the permit of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit.

(0000024)

The SWRCB shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public trust doctrine over this permit to delete, revise, amend, or adopt new terms or conditions to: (1) implement the March 10, 1995, Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms and conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for a hearing.

(0000012)

5. Permits 20831A and 20831B shall contain all other terms and conditions presently in Permit 20813 or updated terms to reflect the present SWRCB policy.

Dated: **DECEMBER 10 1997**

*to, Roger [Signature]*  
Edward C. Anton, Chief  
Division of Water Rights

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 20821**

Application 30119 of Alan Hardin Trust, Donald Hardin Trust and Jeanne Hardin Trust,  
2371 Pope Canyon Road, St. Helena, CA 94571

filed on April 28, 1992, has been approved by the State Water Resources Control Board  
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

(1)(3)(4)(5) four Unnamed Streams  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(6)(7) Hardin Creek

Hardin Creek thence  
Maxwell Creek thence  
Pope Creek thence  
Lake Berryessa thence  
Putah Creek  
Maxwell Creek

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
<b>Storage and Rediversion</b>					
(1) Reservoir #1 - South 2,000 feet and West 1,300 feet from NE corner of Section 36	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	36**	9N	5W	MD
(3) Reservoir #3 - North 800 feet and East 1,300 feet from SW corner of Section 31	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	31**	9N	4W	MD
(4) Reservoir #4 - South 1,000 feet and East 2,100 feet from NW corner of Section 6***	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	6***	8N	4W	MD



(5) Reservoir #5 - South 1,900 feet and West 400 feet from NE corner of Section 6***	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	6***	8N	4W	MD
<b>Diversion to Offstream Storage</b>					
(6) North 1,300 feet and East 1,850 feet from SW corner of Section 31**	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	31**	9N	4W	MD
(7) South 1,700 feet and East 100 feet from NW corner of Section 31	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	31**	9N	4W	MD
<b>Offstream Storage</b>					
(2) Unnamed Reservoir	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	31**	9N	4W	MD
* fractional ** projected fractional *** projected					

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Stockwatering						
Recreational	Reservoir #1 within E $\frac{1}{2}$	36**	9N	5W	MD	
	Reservoir #2 within SW $\frac{1}{4}$ of NW $\frac{1}{4}$	31**	9N	4W	MD	
	Reservoir #3 within SW $\frac{1}{4}$ of SW $\frac{1}{4}$	31**	9N	4W	MD	
	Reservoir #4 within NE $\frac{1}{4}$ of NW $\frac{1}{4}$	6***	8N	4W	MD	
	Reservoir #5 within SE $\frac{1}{4}$ of NE $\frac{1}{4}$	6***	8N	4W	MD	
Domestic						
Frost Protection						
Heat Control						
Irrigation	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	6***	8N	4W	MD	35
	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	6***	8N	4W	MD	2
	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	6***	8N	4W	MD	22
	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	6***	8N	4W	MD	4
	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	6***	8N	4W	MD	18
	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	6***	8N	4W	MD	24
	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	6***	8N	4W	MD	2
	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	31**	9N	4W	MD	1
	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	31**	9N	4W	MD	20
	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	31**	9N	4W	MD	25

	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	31**	9N	4W	MD	4
	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	31**	9N	4W	MD	8
	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	31**	9N	4W	MD	30
	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	36**	9N	5W	MD	12
	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	36**	9N	5W	MD	40
	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	36**	9N	5W	MD	5
	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	36**	9N	5W	MD	27
	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	36**	9N	5W	MD	7
					TOTAL	286

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 245 acre-feet per annum to be collected from November 1 of each year to May 31 of the succeeding year as follows: 49 acre-feet per annum in Reservoir #1, 49 acre-feet per annum in Reservoir #2, 49 acre-feet per annum in Reservoir #3, 49 acre-feet per annum in Reservoir #4, and 49 acre-feet per annum in Reservoir #5. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

The maximum rate of diversion to offstream storage shall not exceed 10 cubic feet per second. (000005J)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 1998. (0000008)

8. Complete application of the water to the authorized use shall be made by December 31, 1999. (0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

13. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

14. Permittee shall install and maintain an outlet pipe of adequate capacity in the dams for Reservoirs #1, #3, #4 and #5 as near as practicable to the bottom of the natural stream channel in order that water entering the reservoirs which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the

outlet pipes to the Chief of the Division of Water Right for approval. Before storing water in the reservoirs, permittee shall furnish evidence which substantiates that the outlet pipes have been installed in each dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

15. Permittee shall install and properly maintain totalizing flow meters and/or other measuring devices satisfactory to the State Water Resources Control Board at Points of Diversion 6 and 7 so that water diverted to offstream storage may be accurately determined. Permittee shall record measuring device readings on a monthly schedule and submit records to the State Water Resources Control Board annually. (0060046)

16. For the protection of fish and wildlife, diversions from Hardin Creek at Points of Diversion 6 and 7 shall be subject to maintenance of the following minimum bypass flows:

- (a) from November 1 through November 30, a minimum of 1 cubic feet per second
- (b) from December 1 through February 29, a minimum of 10 cubic feet per second
- (c) from March 1 through May 31, a minimum of 2 cubic feet per second

No diversion from Hardin Creek is allowed under this permit if the total streamflow is or would be reduced below the designated amounts. (0140060)

17. No water shall be diverted under this permit until permittee has installed devices, satisfactory to the State Water Resources Control Board, which are capable of measuring the bypass flows required by the conditions of this permit. Said measuring devices shall be properly maintained. (0060062)

18. Prior to diversion and use of water under this permit, permittee shall install screening devices on pumps diverting water from Hardin Creek. The design of said screens shall be approved prior to construction by the Department of Fish and Game, and notice of approval submitted to the Chief, Division of Water Rights. (0360500)  
(0400500)

19. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

20. Permittee is hereby put on notice that there may be years when storage and diversion of water to offstream storage under this permit will not be within the reservation of water established for the watershed upstream from Lake Berryessa in State Water Resources Control Board Decision 869. During such years, unless replacement water is provided on an exchange basis, permittee:

(1) shall release water collected to storage under this permit during the preceding collection season at the maximum practical rate to flow into Lake Berryessa and

(2) shall not make and diversion to offstream storage during the portion of such years that, in absence of permittee's diversion, hydraulic continuity would exist between the diversion point and Lake Berryessa, and at such times, shall allow all streamflow at the diversion works to pass undiminished to the downstream channel.

Nothing in this condition, however, shall preclude permittee from diverting water under any prior right.

(0220088)

(0230088)

21. The State Water Resources Control Board reserves jurisdiction over this permit to impose or modify conditions to conform this permit to subsequent Board actions on the reservation of water established for the watershed upstream from Lake Berryessa in Board Decision 869. Action by the Board under this term will be taken only after notice to interested parties and opportunity for hearing.

(0000600)

22. No construction shall be commenced and no water shall be used under this permit in areas identified as erosion hazard areas in Napa County Ordinances 991 and 998 until permittee has obtained all necessary County approvals. Copies of erosion control plans and County approvals shall be forwarded to the Department of Fish and Game and the Chief, Division of Water Rights. Such plans shall include a report by a registered geologist or engineer analyzing potential landslide hazard at Points of Diversion 4 and 5.

(0400500)

23. The archeological sites identified as CA-NAP-221, CA-NAP-222, and the One Point Site shall not be impacted by any of the developments authorized under this permit. These sites shall be excluded from the proposed project Place of Use (i.e. irrigated vineyards and hay crops) and all project construction activities shall be designed to avoid any subsurface disturbances to these sites. Future developments at the locations of these archeological sites may be allowed following the completion of a cultural resource testing and/or mitigation program approved by the Chief, Division of Water Rights. Should any evidences of previously unrecorded cultural resources be discovered during project activities, those activities shall cease within 100 feet of the discovery until the significance of the find can be evaluated by a professional archeologist, and the appropriate mitigation measures (as required by the Chief, Division of Water Rights) completed.

(0380500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

Dated January 26, 1996

*David R. Baer*  
for Chief, Division of Water Rights